



1570 PERMANENCY HEARING	
Chapter: Case Management Standards for CP and JJ Field Services	Section: Legal Processes
 <p>New Hampshire Division for Children, Youth and Families Policy Manual Policy Directive: 15-43 Effective Date: September 2015 Scheduled Review Date:</p>	<p>Approved:</p>  Lorraine Bartlett, DCYF Director
Related Statute(s): RSA 169-B , RSA 169-C , RSA 169-D , RSA 629 , RSA 630: 1-a , RSA 631 , and RSA 632-A Related Admin Rule(s): Related Federal Regulation(s): 1355.20 , 1356.21 , SSA 471 , SSA 472 , and SSA 475 ,	Related Form(s): FORM 2235A Bridges' Screen(s) and Attachment(s):

All children and youth need and deserve permanency. The Division collaborates with families and the judicial branch in the beginning of the case to support the ongoing review of efforts toward achieving permanency goals.

Purpose

The purpose of this policy is to provide specific guidance on the permanency hearing and its requirements, as mandated by New Hampshire statute and federal law, for children/youth in out-of-home placement.

Definitions

"APPLA" or "Another Planned Permanent Living Arrangement" means a permanency goal in which the Division maintains supervision of, and placement and care responsibility for a youth age 16 or older through the deliberate out-of-home placement of the youth with an identified permanent connection until the youth reaches adulthood based on compelling information that it is not in the youth's best interest to seek a more permanent goal.

"Concurrent Goal" means the alternative plan for the child/youth in placement that will achieve another permanency goal if reunification with a parent is not possible.

"CPS" means the Bureau of Field Services' Child Protective Services within DCYF.

"CPSW" means a Child Protective Service Worker employed by DCYF.

"DCYF" or the "Division" means the DHHS Division for Children, Youth and Families.

"JJS" means the Bureau of Field Services' Juvenile Justice Services within DCYF.

"JPPO" or "Juvenile Probation and Parole Officer" means an employee of DCYF who discharges the powers and duties established by RSA 170-G: 16, and supervises paroled delinquents pursuant to RSA 170-H.

"Permanency Goal" means the desired outcome of interventions and services, which is determined to be consistent with the health, safety, well-being, and best interest of the child/youth. For each child/youth, there will be one primary current goal from the following options:

- (1) Maintain in own home;
- (2) Return home (Reunification);
- (3) Adoption;
- (4) Legal guardianship; or
- (5) Another Planned Permanent Living Arrangement (APPLA).

"Permanency Hearing" means the court hearing that determines the permanent placement of a child/youth, pursuant to the Adoption and Safe Families Act (ASFA).

"Reasonable Efforts" mean measurable steps taken by DCYF staff and service providers to prevent a child/youth's placement, return a child to his or her family, or achieve another permanency goal for the child/youth.

Policy

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| <ol style="list-style-type: none"> I. The permanency hearing must meet the criteria contained in SSA Section 475(5)(C), Title 45 Part 1356.21(h), and also meet the requirements of 169-B:31-a, RSA 169-C:24-b, and 169-D:21-a. II. The permanency hearing on each child/youth's placement case must be held by the earliest of the following dates: <ol style="list-style-type: none"> A. For abuse and neglect cases: <ol style="list-style-type: none"> 1. For a child/youth that has been in an out-of-home placement for 12 or more months, within 12 months of the finding. 2. For a child/youth that enters an out-of-home placement subsequent to a finding, the permanency hearing must be held within 12 months of the date the child enters the out-of-home placement. B. For CHINS or delinquent cases: <ol style="list-style-type: none"> 1. A child/youth who enters an out-of-home placement prior to an adjudicatory finding and who is in an out-of-home placement for 12 or more months, the permanency hearing must be held within 14 months of the child/youth's entry into out-of-home placement or within 12 months of the court's adjudicatory finding, whichever is earlier. 2. For a child/youth who enters an out-of-home placement subsequent to an adjudicatory finding and who is in an out-of-home placement for 12 or more months, the initial permanency hearing must be held within 12 months of the child/youth's entry into out-of-home placement. 3. For a child/youth who is in out-of-home placement following the initial permanency hearing, subsequent permanency hearing(s) must be held within 12 months of the initial permanency hearing and every 12 months thereafter as long as the child/youth is in an out-of-home placement. |
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- III. In determining the full length of time in placement for part II above, include time spent by the child/youth who:
 - A. Is on a trial home visit for up to 6 months; or
 - B. Has run away from his or her placement.
- IV. Any party at any time following an adjudicatory finding or the approval of a consent agreement that includes a finding, may motion to the court to request a permanency hearing be conducted within 30 calendar days of:
 - A. A court determination that reasonable efforts to reunify the child/youth are no longer necessary; or
 - B. A parent's conviction of any of the following crimes:
 - 1. Murder of another child of the parent, pursuant to RSA 630: 1-a;
 - 2. Manslaughter of another child of the parent, pursuant to RSA 630:2;
 - 3. Attempt, pursuant to RSA 629:1, solicitation, pursuant to RSA 629:2, or conspiracy, pursuant to 629:3, to commit any of the offenses in 1 or 2 above; and/or
 - 4. A felony assault under RSA 631:1, 631:2, 632-A:2, or 632-A:3 which resulted in serious bodily injury to the child or to another child of the parent.
- V. If a 30-day permanency hearing is held relative to IV-A or IV-B above, the court must require DCYF to:
 - A. File a TPR petition within 60 days of the permanency hearing order; and
 - B. Make reasonable efforts to finalize a new permanent home for the child/youth.
- VI. The court of jurisdiction for the hearing is the District or Family Court where the Division's custody originated if the parents' rights have not been surrendered or terminated and there is no appeal of the adjudicatory order.
 - A. If the Family Court granted custody, then the Family Court continues to be the court of jurisdiction.
 - B. If both parents' rights have been surrendered or terminated, the court of jurisdiction is the Family Court unless the Family Court judge makes other arrangements.
- VII. If not already scheduled by the court, the CPSW or JPPO must request a permanency hearing date 4 to 6 weeks in advance of the requirements as detailed in Sections II and IV of this policy.
- VIII. The CPS or JJS Supervisor must discuss the various [permanency options](#) for children/youth in care with the CPSW/JPPO during monthly supervision and document the decisions made in the Contact Log.
- IX. The court will notify the parents, foster parents, prospective adoptive parents, and relatives providing care, of the hearing's date and will inform them that they will be able to discuss the permanency goal for the child/youth at the hearing.

- X. CPSWs/JPPOs shall use the Form 2260: Hearing Notice template letter to notify the foster parents, pre-adoptive parents and relative caregivers of permanency hearings.
 - A. The letter will explain what they can expect in court, clarify roles, and invite the foster parents, pre-adoptive parents and relative caregivers to attend hearings and/or submit a letter to the court.
 - B. CPSWs/JPPOs shall document the notification of all hearings in Bridges. This should be done by typing the phrase "Hearing Notice Sent" in the narrative of the contact log.
 - C. A hard copy of the Notice of Hearing letter must be placed in the case file.
 - D. If a child changes placement before the hearing happens a new Notice of Hearing must be drafted and given to the new caregiver so that they have the notice and opportunity to attend and be heard at the hearing.
 - E. If there is insufficient time to provide the foster parents, pre-adoptive parents and relative caregivers with written notification the CPSW/JPPo must notify them via telephone. Insufficient time is defined as less than 48 hours.
 - F. The CPSW/JPPo shall be available to answer any questions the foster parents, pre-adoptive parents and relative caregivers may have regarding the hearing.
- XI. CPSWs/JPPOs shall notify youth (of an appropriate age) of the date and time of the permanency hearing and discuss with the youth what they may expect in court, and clarify roles.
 - A. Notification may be provided in person, in writing, or by telephone. There is no separate notice for the youth.
 - B. When the youth has been notified about the date of an upcoming permanency hearing, it **must** be documented in the narrative of the contact entered in Bridges.
 - C. The CPSW/JPPo shall be available to answer any questions the youth may have regarding the hearing.
- XII. A court report must be prepared by the CPSW or JPPo, prior to the permanency hearing that addresses:
 - A. Reasonable efforts made by DCYF to make and finalize a permanent placement;
 - B. For youth age 14 and older, the services needed to assist the child/youth to make a successful transition to adulthood;
 - C. As applicable to the circumstances of the case, the parent's compliance with the outstanding dispositional order or Case Plan, what action the parent has taken in response to each dispositional order, whether meaningful participation by each parent has occurred concerning each dispositional order, and whether the conditions or circumstances leading to the child/youth's removal have been corrected;
 - D. For CPS cases, the ability of the parent to demonstrate that:
 - 1. The child/youth will not be endangered in the manner adjudicated on the initial petition, if the child/youth is returned home;

2. The return of custody is in the child/youth's best interests. Upon showing the ability to provide proper parental care, it must be presumed that a return of custody is in the child/youth's best interests;
- E. For JJS cases:
1. A review of the child/youth's removal and case history; and
 2. The child/youth's compliance and meaningful participation with current court orders;
- F. A review of the Case Plan, permanency goal, and concurrent goal, and the progress in obtaining the goals.
1. The recommended permanent placement for the child/youth and the reasons other permanent placements are inappropriate for the child/youth including a review of each of the following alternatives, as applicable:
 - (a) Placed for adoption;
 - (b) Placed with a legal guardian; or,
 - (c) Placed in another planned permanent living arrangement, if 16 or older.
 2. The permanency goal for the child/youth includes whether, and if applicable when, the child will be returned to the parent; or
 3. When concurrent planning for adoption, legal guardianship, or APPLA will become the primary permanency goal, and DCYF will:
 - (a) Explore a voluntary surrender of parental rights; or
 - (b) File a petition for termination of parental rights.
- G. The CPSW or JPPO shall include in their report for a youth 14 years of age or older, how the permanency goal was developed or revised in consultation with the youth.
1. Identify if the youth selected 2 members of the permanency planning team who are not a foster parent of, or CPSW or JPPO for the youth to assist in case planning.
 2. Provide good cause why any person(s) chosen by the youth was rejected by DCYF, if applicable; and
 3. Identify if one of the individuals selected by the youth was designated to be the youth's advisor and advocate with respect to the application of the reasonable and prudent parent standard to the child.
- H. For a youth with a permanency goal of APPLA, and as applicable on a case-by-case basis as determined by the CPSW/JPPO:
1. Document the compelling reason for determining that it would not be in the best interest of the child to: return home; be placed for adoption; or be placed with a legal guardian.

- (a) Identify intensive, ongoing, and unsuccessful efforts made by DCYF as of the date of the hearing, to return the youth home or secure a placement with a legal guardian or an adoptive parent; and
 - (b) Include ongoing efforts that utilize search technology (including social media) to find relatives and connections for the youth.
 - 2. Document the steps taken to ensure the youth's foster family home or residential treatment program is following the reasonable and prudent parent standard:
 - (a) Identify regular ongoing opportunities for the youth to engage in age or developmentally appropriate activities
 - (b) Include the youth's input about the opportunities to participate in the activities.
- I. The applicability, if any, of the Indian Child Welfare Act of 1978.
- XIII. The report prepared by the CPSW/JPPPO and any reports from counselors and guardian ad litem must be submitted to the court at least 5 days prior to the hearing, in accordance with RSA 169-B:5-a, 169-C:12-b, or 169-D:4-a.
 - A. A copy of the court report must be sent to all parties involved in the case and to those who are ordered by the court.
- XIV. During the hearing, the CPSW/JPPPO must provide information and make a recommendation concerning the child/youth's permanent placement.
 - A. The CPSW/JPPPO and other involved individuals must discuss plans and services for the child/youth.
 - B. The CPSW/JPPPO must request the court to determine if the Division has made reasonable efforts to finalize a permanency goal for each child/youth.
 - C. For a youth with a permanency goal of APPLA, the CPSW/JPPPO shall request the court if the court has not already done so, to:
 - 1. Ask the youth about their desired permanency outcome;
 - 2. Make a judicial determination explaining why APPLA is, or continues to be, the best permanency goal for the youth and provide compelling reasons why it is not in the best interests of the child/youth to:
 - (a) Return home;
 - (b) Be placed for adoption; or
 - (c) Be placed with a legal guardian.
- XV. The final court order must incorporate a determination regarding the permanency goal for the child/youth.
 - A. A signed copy of each court order and each court report must be filed in the case record.
 - B. The court may grant continuances in any of the proceedings only for good cause shown.

- XVI. A permanency review hearing must be held every 12 months after the initial permanency hearing for a child or youth who remains in an out-of-home placement until the child/youth's permanency goal is achieved.

Practice Guidance

Does a permanency hearing have to be scheduled separate from a reasonable efforts determination hearing?

- If all the parties are prepared, the court may conduct the permanency hearing at during the hearing in which the reasonable efforts determination has been made. This will meet the requirement for having a permanency hearing within 30 days.